

**JUDICIAL COUNCIL OF CALIFORNIA  
ADMINISTRATIVE OFFICE OF THE COURTS**

455 Golden Gate Avenue  
San Francisco, California 94102-3688

**Report**

TO: Members of the Judicial Council

FROM: Civil and Small Claims Advisory Committee  
Hon. Elihu M. Berle, Chair  
Case Management Subcommittee  
Hon. Arthur E. Wallace, Chair  
Patrick O'Donnell, Committee Counsel, 415-865-7665,  
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DATE: October 2, 2003

SUBJECT: Notice of Stay and Notice of Settlement (adopt Cal. Rules of Court,  
rule 224 and amend rule 225; adopt forms CM-180 and CM-200)  
(Action Required)

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Issue Statement

Rule 225 of the California Rules of Court presently combines notice requirements regarding (1) notice of stays and (2) notice of settlements. This combination is confusing. The two distinct types of notice should be covered by separate rules. While there are some local court forms relating to notices of stays or settlements, no Judicial Council forms currently exist for these purposes.

Recommendation

The Civil and Small Claims Advisory Committee recommends that the Judicial Council, effective January 1, 2004:

1. Adopt rule 224 of the California Rule of Court on notice of stays;
2. Amend rule 225 on notice of settlement to eliminate the portions on stays;
3. Adopt *Notice of Stay of Proceedings* (form CM-180) to implement the notice of stay requirements of rule 224; and
4. Adopt *Notice of Settlement* (form CM-200) to implement the notice of settlement requirements of amended rule 225.

The text of the new and amended rules is attached at pages 4–6. Copies of the forms are attached at pages 7–8.

#### Rationale for Recommendation

The rule provisions on notices of stays and notices of settlement are currently combined in rule 225. Because they concern different subjects and provide for different procedures, these provisions would be clearer if they were placed in two separate rules.

Regarding rule 225 on notice of settlement, the committee recommends the addition of a new provision that authorizes the court to order compensation from a plaintiff or any other party seeking affirmative relief who fails to notify the arbitrator or other Alternative Dispute Resolution neutral of the settlement at least two days before the scheduled hearing or session. (See amended rule 225(a)(2).)<sup>1</sup>

Finally, two standardized forms should be adopted for parties to provide (1) notice of stay and (2) notice of settlement. These forms will make it easier for litigants, especially self-represented parties, to comply with the notice requirements. These forms should also reduce the costs of preparing the notices and make it easier for courts to process them.

#### Alternative Actions Considered

The committee discussed whether the duty to provide notice of the settlement of a case should be on only one party or on more than one. It concluded that "each plaintiff or other party seeking affirmative relief" should be required to provide this notice. This will ensure that the court and other parties receive notice of the settlement of cross-actions and other matters.

#### Comments From Interested Parties

Ten public comments were received on these proposals. A chart summarizing the comments and the committee's responses is attached at pages 9–12.

The commentators included a superior court rules committee, a presiding judge, court administrators, a local bar association, and an attorney. The commentators generally supported the rules changes and approved of the new forms. Although they suggested some changes to the rules and forms, the committee did not regard most of these as necessary or appropriate, for the reasons explained in the comment chart.<sup>2</sup>

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<sup>1</sup> The rationale for adopting this subdivision is discussed in more detail in a separate Judicial Council report on amendments to the judicial arbitration rules being submitted at the same time as this report.

### Implementation Requirements and Costs

The rule proposals, which clarify current law, will not require any additional actions to implement them. There will be some costs involved in making the new forms available, but they should be outweighed by the advantages to courts and litigants of having a standardized set of forms available statewide for the purposes of providing notice of stays and settlements.

### Attachments

Rule 224 of the California Rules of Court is adopted and rule 225 is amended, effective January 1, 2004, to read:

**Rule 224. Duty to notify court and others of stay**

**(a) [Notice of stay]** The party who requested or caused a stay of a proceeding must immediately serve and file a notice of the stay and attach a copy of the order or other document showing that the proceeding is stayed. If the person who requested or caused the stay has not appeared, or is not subject to the jurisdiction of the court, the plaintiff must immediately file a notice of the stay and attach a copy of the order or other document showing that the proceeding is stayed. The notice of stay must be served on all parties who have appeared in the case.

**(b) [When notice must be provided]** The party responsible for giving notice under (a) must provide notice if the case is stayed for any of the following reasons:

- (1) An order of a federal court or a higher state court;
- (2) Contractual arbitration under section 1281.4 of the Code of Civil Procedure;
- (3) Arbitration of attorney fees and costs under section 6201 of the Business and Professions Code; or
- (4) Automatic stay caused by a filing in another court, including a federal bankruptcy court.

**(c) [Contents of notice]** The notice must state whether the case is stayed with regard to all parties or only certain parties. If it is stayed with regard to only to certain parties, the notice must specifically identify those parties. The notice must also state the reason that the case is stayed.

**(d) [Notice that stay is vacated]** When a stay is vacated or is no longer in effect, the party who filed the notice of the stay must immediately serve and file a notice that the stay is vacated or is no longer in effect.

1 **Rule 225. Duty to notify court and others of settlement or stay**

2  
3 **(a) [Notice of settlement]**

4 (1) If a case is settled or otherwise disposed of, ~~the~~ each plaintiff or  
5 other party seeking affirmative relief must immediately file written  
6 notice of the settlement or other disposition with the court and  
7 serve the notice on all parties and any arbitrator or other court-  
8 connected alternative dispute resolution (ADR) neutral involved in  
9 the case. ~~The~~ Each plaintiff or other party seeking affirmative  
10 relief must also immediately give oral notice to all of the above if a  
11 hearing, conference, or trial is ~~imminent~~ scheduled to take place  
12 within 10 days.

13  
14 (2) If the plaintiff or other party seeking affirmative relief does not  
15 notify an arbitrator or other court-connected ADR neutral involved  
16 in the case of a settlement at least 2 days before a scheduled  
17 hearing or session with that arbitrator or neutral, the court may  
18 order the party to compensate the arbitrator or other neutral for the  
19 scheduled hearing time. The amount of compensation ordered by  
20 the court must not exceed the maximum amount of compensation  
21 the arbitrator would be entitled to receive for service as an  
22 arbitrator under Code of Civil Procedure section 1141.18(b) or that  
23 the neutral would have been entitled to receive for service as a  
24 neutral at the scheduled hearing or session.

25  
26 **(b) [Dismissal of case]** Except as provided in (c), ~~the~~ each plaintiff or other  
27 party seeking affirmative relief must serve and file a request for  
28 dismissal within 45 days after the date of settlement. If the plaintiff or  
29 other party required to ~~does not~~ serve and file the request for dismissal  
30 does not do so, the court must dismiss the case 45 days after it receives  
31 notice of settlement unless good cause is shown why the case should not  
32 be dismissed.

33  
34 **(c) [Conditional settlement]** If the settlement agreement conditions  
35 dismissal on the satisfactory completion of specified terms that are not  
36 to be performed within 45 days of the settlement, the notice of  
37 conditional settlement served and filed by each plaintiff or other party  
38 seeking affirmative relief must specify the date by which the dismissal  
39 is to be filed. If the plaintiff or other party required to ~~does not~~ serve  
40 and file a request for dismissal within 45 days after the dismissal date  
41 specified in the notice does not do so, the court must dismiss the case  
42 unless good cause is shown why the case should not be dismissed.  
43

1        ~~(d) [Filing notice of stay]~~ This subdivision applies to cases stayed for the  
2        following reasons:

- 3
- 4            (1)    ~~Order of a federal court or a higher state court;~~
- 5            (2)    ~~Contractual arbitration under section 1281.4 of the Code of Civil~~  
6            ~~Procedure;~~
- 7
- 8            (3)    ~~Arbitration of attorney fees and costs under section 6201 of the~~  
9            ~~Business and Professions Code; or~~
- 10
- 11           (4)    ~~Automatic stay caused by a filing in another court.~~
- 12

13        ~~The party who requested or caused the stay must immediately file a notice of~~  
14        ~~the stay and attach a copy of the order or other document showing that the~~  
15        ~~proceedings are stayed. If the person who requested or caused the stay has~~  
16        ~~not appeared, or is not subject to the jurisdiction of the court, the plaintiff~~  
17        ~~must immediately file a notice of the stay and attach a copy of the order or~~  
18        ~~other document showing that the proceedings are stayed.~~

19

20        ~~When a stay is vacated or is no longer in effect, the party who filed the notice~~  
21        ~~of the stay must immediately file a notice that the stay is vacated or is no~~  
22        ~~longer in effect.~~

ATTORNEY OR PARTY WITHOUT ATTORNEY <i>(Name, State Bar number, and address):</i>   TELEPHONE NO.: _____ FAX NO. <i>(Optional)</i> : _____ E-MAIL ADDRESS <i>(Optional)</i> : _____ ATTORNEY FOR <i>(Name)</i> : _____	FOR COURT USE ONLY
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF _____</b> STREET ADDRESS: _____ MAILING ADDRESS: _____ CITY AND ZIP CODE: _____ BRANCH NAME: _____	
PLAINTIFF/PETITIONER: _____ DEFENDANT/RESPONDENT: _____	
<b>NOTICE OF STAY OF PROCEEDINGS</b>	CASE NUMBER: _____
	JUDGE: _____
	DEPT.: _____

**To the court and to all parties:**

1. Declarant *(name)*:

- a. ☐ is ☐ the party ☐ the attorney for the party who requested or caused the stay.
- b. ☐ is ☐ the plaintiff or petitioner ☐ the attorney for the plaintiff or petitioner. The party who requested the stay has not appeared in this case or is not subject to the jurisdiction of this court.

2. This case is stayed as follows:

- a. ☐ With regard to all parties.
- b. ☐ With regard to the following parties *(specify by name and party designation)*:

3. Reason for the stay:

- a. ☐ Automatic stay caused by a filing in another court. *(Attach a copy of the Notice of Commencement of Case, the bankruptcy petition, or other document showing that the stay is in effect, and showing the court, case number, debtor, and petitioners.)*
- b. ☐ Order of a federal court or of a higher California court. *(Attach a copy of the court order.)*
- c. ☐ Contractual arbitration under Code of Civil Procedure section 1281.4. *(Attach a copy of the order directing arbitration.)*
- d. ☐ Arbitration of attorney fees and costs under Business and Professions Code section 6201. *(Attach a copy of the client's request for arbitration showing filing and service.)*
- e. ☐ Other:

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

\_\_\_\_\_  
(TYPE OR PRINT NAME OF DECLARANT)

\_\_\_\_\_  
(SIGNATURE)

ATTORNEY OR PARTY WITHOUT ATTORNEY ( <i>Name, State Bar number, and address</i> ):   TELEPHONE NO.: _____ FAX NO. ( <i>Optional</i> ): _____ E-MAIL ADDRESS ( <i>Optional</i> ): _____ ATTORNEY FOR ( <i>Name</i> ): _____	FOR COURT USE ONLY
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF _____</b> STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PLAINTIFF/PETITIONER:  DEFENDANT/RESPONDENT:	
<b>NOTICE OF SETTLEMENT</b>	CASE NUMBER:
	JUDGE:
	DEPT.:

### NOTICE TO PLAINTIFF

If you have not filed a request for dismissal within 45 days of the date this Notice of Settlement is received by the court or, if the settlement is conditional, within 45 days of the date specified in item 1b, the court must dismiss the case unless good cause is shown within that time why the case should not be dismissed.

#### To the court, all parties, and any arbitrator or other court-connected ADR neutral involved in this case:

1. This case has been settled. The settlement is:
  - a. ☐ **Unconditional.** A request for dismissal will be filed within 45 days after the date of the settlement.  
Date of settlement: \_\_\_\_\_
  - b. ☐ **Conditional.** The settlement agreement conditions dismissal of this matter on the satisfactory completion of specified terms that are not to be performed within 45 days of the date of the settlement. A request for dismissal will be filed no later than (*date*): \_\_\_\_\_
2. Date initial pleading filed: \_\_\_\_\_
3. Next scheduled hearing or conference:
  - a. Purpose: \_\_\_\_\_
  - b. Date: \_\_\_\_\_ Time: \_\_\_\_\_
4. Trial date:
  - a. ☐ No trial date set.
  - b. ☐ Date: \_\_\_\_\_ Time: \_\_\_\_\_

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct

Date: \_\_\_\_\_



\_\_\_\_\_  
(TYPE OR PRINT NAME OF ☐ ATTORNEY ☐ PARTY WITHOUT ATTORNEY)

\_\_\_\_\_  
(SIGNATURE)

**SPR03-14**

**Notice of Stays and Settlements: Rules and Forms**  
(adopt Cal. Rules of Court, rule 224 and amend rule 225; approve forms CM-180 and CM-200)

	<b>Commentator</b>	<b>Position</b>	<b>Comment on behalf of group?</b>	<b>Comment</b>	<b>Committee Response</b>
1.	Mr. Grant Barrett General Counsel Superior Court of California, County of Calaveras	A	N	Good forms. This issue – duty to notice re stay or settlement has been a problem. A good solution is proposed. Thank you.	No response required.
2.	Hon. Ronald L. Bauer Orange Co. Rules and Forms Committee Superior Court of California, County of Orange	A	Y	The Rules and Forms committee of the Orange County Superior Court reviewed this item at their meeting of June 12, 2003, and agree with the proposed changes.	No response required.
3.	Ms. Julie Camacho Superior Court of California, County of Ventura	AM	N	The sentence, "The party who requested the stay has not appeared in this case or is not subject to the jurisdiction of this court" should be removed from 1b on the Notice of Stay of Proceedings, and become a separate item 1c with its own check box. It is confusing in its existing format.	The committee disagreed. This statement properly belongs in item 1b.
4.	Ms. Cynthia Denenholz Superior Court of California, County of Sonoma	N	N	<p>The suggested changes are fine, but proposed rule 225 does not make sense as applied to family law cases (which are not specifically excepted as they are from many of the state court rules). Settlements in family law cases generally result in stipulated orders or judgments; they almost never result in dismissals.</p> <p>It is helpful to have rules regarding notification of stays and settlements in family law cases. Therefore, it would not be appropriate to except them here, without adding rules under Title 5, Division 1, as was done with C.R.C., Rule 227 in this cycle.</p>	These comments will be referred to the Family and Juvenile Law Advisory Committee.

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5.	Richard L. Haeussler Haeussler & Associates	AM	N	<p>I believe that the Title to the form CM-200 should be changed to "SETTLEMENT NOTICE" to make it easier to find in the listing of forms. At the present time, there are a large number of official forms, which are labeled "Notice of XXX."</p> <p>I believe that the Settlement Notice should provide for an Order of Stay within the notice, which vacates the pending hearings/ trial dates and sets a review date. The only reason that I suggest this is because it may provide a simple means for the court and its staff to give notice without having to do their own individually typed minute order.</p> <p>As to the remainder of the proposal concerning settlement notices, I am in full agreement.</p> <p align="center">- - - - -</p> <p>I agree with the proposed changes as they relate to the adoption of rule 224, and the adoption of Form CM-180. At the present time, I have been involved in 3 BK cases/Civil cases in the last year. I am about to file a BK on behalf of a client, which will affect 4 pending lawsuits.</p>	<p>The committee disagreed; it regards the present title as preferable and easier to find.</p> <p>The committee disagreed that an order should be included. It is not necessary and its inclusion might pose legal problems in certain cases.</p> <p>No response required.</p> <p>No response required.</p>
6.	Mr. Stephen V. Love Executive Officer Superior Court of California, County of San Diego	AM	N	<p><u>Notice of Settlement:</u> Rule 225(a)(2)–Add the word "ADR" before the word "neutral" for consistency.</p>	<p>This is not necessary. However, the committee has added the full words "Alternative Dispute Resolution" instead of the term "ADR" the first time the term appears.</p>

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	<b>Commentator</b>	<b>Position</b>	<b>Comment on behalf of group?</b>	<b>Comment</b>	<b>Committee Response</b>
				<p>Rule 225(b) [Dismissal of case]. Change "must" to "will" in the sentence. If the plaintiff does not serve and file the request for dismissal, the court must dismiss the case 45 days after it receives notice of settlement unless good cause is shown why the case should not be dismissed.</p> <p>Rule 225(c)[Conditional Settlement]. Does not provide for timely disposition of the case (refer to San Diego Local rule 21.4). It causes problems for the case management system as cases are tracked until the dismissal is filed.</p> <p><u>Notice of Settlement (form MC-1180):</u>  Item 16. We suggest the following language:  "Conditional. The settlement agreement conditions dismissal of this matter on the satisfactory completion of specified terms that are not to be performed within 45 days of the date of the settlement. A dismissal without prejudice will be filed immediately. A request for dismissal with prejudice will be filed no later than (date): _____.</p> <p><u>Notice of Stay:</u>  Rule 224(d)–Add language to the form to vacate the stay or create a separate form.</p>	<p>The committee disagreed. The term “must”, which is in the current rule, makes it clear what action the court is required to take if the plaintiff fails to serve and file the request for dismissal.</p> <p>The committee disagreed. Once a case is conditionally dismissed, it should no longer be tracked for timely disposition.</p> <p>The committee disagreed. The proposed approach is contrary to current rule 225, which has operated effectively for a number of years. Conditioned settlement with future dismissal currently is, permitted; immediate dismissal is not required. The rule does not need to be changed in this regard.</p> <p>The committee is considering developing a separate form for modifying the court and parties that a stay has been vacated.</p>
7.	Ms. Sandra Mason Director of Civil Operations	A	N	These changes and forms address several issues that have been difficult to enforce.	The committee agreed.

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	<b>Commentator</b>	<b>Position</b>	<b>Comment on behalf of group?</b>	<b>Comment</b>	<b>Committee Response</b>
	Superior Court of California, County of San Luis Obispo			<p>Stay: Typically, the clerk has to call the attorney/party to request a copy of the order or document that stays the proceedings rarely is it attached.</p> <p>Settlement: ADR neutrals have not been advised of settlement—the likelihood that compensation will be ordered should be an inducement.</p> <p>Conditional settlement: It is like pulling teeth to get the date that the term will be completed by.</p> <p>These forms will clarify the procedures.</p>	
8.	Hon. Dennis E. Murray Presiding Judge Superior Court of California, County of Tehama	A	N	Agrees with proposed changes, without specific comments.	No response required.
9.	Orange County Bar Association P.O. Box 17777	A	Y	Rule 225(b) should be modified to state that "plaintiff must serve on all parties who have appeared in the case and file a request..."; "if the plaintiff does not serve on all parties who have appeared in the case and file the request for dismissal ....". Further 225(c) should be modified to state that "If the plaintiff does not serve on all parties who have appeared in the case and file a request for dismissal within 45 days...."	The proposed change is not necessary. (See rule 200.1(10) definition of "serve and file".)
10.	Elena Simonian Court Administrator Superior Court of California,	A	N	Agrees with proposed changes, without specific comments.	No response required.

**SPR03-14**

## Notice of Stays and Settlements: Rules and Forms

(adopt Cal. Rules of Court, rule 224 and amend rule 225; approve forms CM-180 and CM-200)

	<b>Commentator</b>	<b>Position</b>	<b>Comment on behalf of group?</b>	<b>Comment</b>	<b>Committee Response</b>
	County of San Francisco				